

## 2007 DRAFTING REQUEST

### Bill

Received: **03/13/2007**

Received By: **mkunkel**

Wanted: **As time permits**

Identical to LRB:

For: **Jeffrey Plale (608) 266-7505**

By/Representing: **Katy**

This file may be shown to any legislator: **NO**

Drafter: **mkunkel**

May Contact:

Addl. Drafters:

Subject: **Public Util. - telco**

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Plale@legis.wisconsin.gov**

Carbon copy (CC:) to:

### Pre Topic:

No specific pre topic given

### Topic:

Deregulation of certain telecommunications utilities

### Instructions:

See Attached

### Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
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for Senate per

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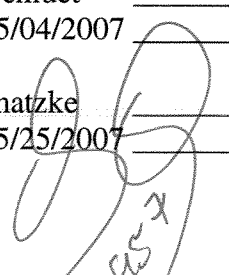
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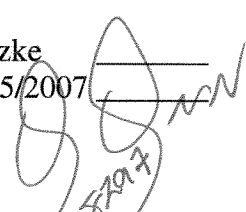
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1/?	mkunkel	1 4/6 07	nwn 4/6	nwn/sb 4/6			State

FE Sent For:

<END>

## Kunkel, Mark

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**From:** Venskus, Katy  
**Sent:** Monday, March 19, 2007 11:13 AM  
**To:** Kunkel, Mark  
**Subject:** Please draft as a P-draft

**Attachments:** Outline of Suggested Reforms for Plale Office.doc

Hey Mark-

I am attaching suggested language from WSTA on some of the regualtory reform language. I need it drafted ASAP.



Outline of  
Suggested Reforms f.

Katy Venskus  
Clerk, Senate Committee on Commerce Utilities and Rail  
Office of Senator Jeff Plale  
313 South, State Capitol  
PO Box 7882  
Madison, WI 53701  
608.266.7505

**RECOMMENDATIONS TO ENHANCE**  
**WISCONSIN'S**  
**TELECOMMUNICATIONS**  
**MARKETPLACE AND ENCOURAGE**  
**CONTINUED INVESTMENT IN**  
**ADVANCED NETWORKS**



**Group A**  
**Suggested Statutory Changes to Address**  
**Excessive Reporting Requirements Currently**  
**Imposed On Telecommunications Utilities**

## Statutory Section: § 196.02; Commission's Powers

### Why Changes Are Needed:

The current language of this statute leaves an open door for the PSC to continue to require the filing of significant information by telecommunications utilities even if other statutes, namely Wis. Stat. § 196.07, are reformed to reduce reporting requirements. Since the goal is to reduce reporting requirements, minimizing the effect of this "catch all" statute is also necessary.

This suggested language below is not intended to completely eliminate the PSC's ability to obtain information from the entities it regulates. This change is intended to incorporate a burden of proof on the PSC that will require the PSC to justify how any data request is connected to the PSC's jurisdiction. As currently written, the statute allows the PSC to justify the gathering of information from companies that may not have any significant regulatory purpose for the citizens of Wisconsin.

In short, the suggested changes outlined below would provide regulated entities with the ability to argue about the need to produce certain information and would limit, albeit minimally, the PSC's ability to request data that is only tangentially related to its jurisdiction.

The intent is to have this language apply to telecommunications utilities as well as alternative telecommunications utilities.

### Suggested Changes:

196.02 (1) Jurisdiction. The commission has jurisdiction to supervise and regulate every public utility in this state and to ~~do all things necessary and convenient to its jurisdiction~~ take actions that are reasonably necessary to carry out its regulatory functions under this chapter. ✓

196.02 (4)(a) The commission may inquire into the management of the business of all public utilities. The commission shall keep itself informed as to the manner and method in which the same is conducted. The commission may obtain from any public utility ~~any~~ information that is reasonably necessary to enable the commission to perform its duties. ✓


(b) Each public utility, except for telecommunications utilities and alternative telecommunications utilities, shall furnish to the commission, in such form and at such times as the commission requires, the following information respecting the identity of the holders of its voting capital stock in order to enable the commission to determine whether the holders constitute an affiliated interest within the meaning of this chapter: ✓

1. The names of each holder of one percent or more of the voting capital stock of the public utility.

2. The nature of the property right or other legal or equitable interest which the holder has in the stock.

3. Any other similarly relevant information which the commission prescribes and directs.

(c) Each telecommunications utility or alternative telecommunications utility shall furnish the commission only with:

1. The names of each holder of five percent or more of the voting capital stock of the telecommunications utility; and
  2. The nature of the property right or equitable interest which the holder has in the stock.
- 

(d) The information prescribed in 196.02(4)(c) shall be considered a confidential trade secret under s. 196.14 and may be provided on a confidential basis.

## Statutory Section: § 196.07; Balance Sheet Filed Annually

### Why Changes Are Needed:

The PSC's annual reporting requirements generally stem from this statute. Over time, the requirements under this statute have expanded (and in some cases contracted), but now require that entities in Wisconsin file a significantly long annual report. Presumably, the vast majority of this information is required pursuant to the allowance in the statute for the PSC to collect "any other information the commission prescribes." This broad grant of power has gone too far. For 2006, the Annual Report will be approximately 30 pages long. This is hardly the "balance sheet" that is envisioned by the current statute and is out of line with what telecommunications providers are required to file in neighboring states.

The suggested change would specifically identify the information that will be filed as the annual report for telecommunications utilities. This change would bring Wisconsin in conformity with several neighboring states that have dramatically reduced the annual reporting requirements as the industry has become more and more competitive.

The intent is to have this language apply to telecommunications utilities (generally incumbent providers) as well as alternative telecommunications utilities (generally competitive providers).

### Suggested Changes:

196.07 (1) Each public utility shall close its accounts annually on December 31 and promptly prepare a balance sheet of that date. On or before the following ~~April~~ May, 1 every public utility shall file with the commission the balance sheet together with any other information the commission prescribes, except that the information filed by a telecommunications utility or alternative telecommunications utility shall include only a balance sheet, a count of the access lines served by the utility, and information needed to calculate an assessment pursuant to s. 196.218. The information shall be verified by an officer of the public utility. Information provided by a telecommunications utility or alternative telecommunications utility shall be granted provisional confidential treatment without the necessity of filing a request under § PSC 2.12. The commission, for good cause shown, may extend the time for filing the balance sheet and prescribed information.

## **Statutory Section: § 196.10; Construction; Accounting**

### **Why Changes Are Needed:**

The goal is to reduce the reporting requirements imposed upon telecommunications utilities and make them more efficient in a competitive marketplace. This is particularly necessary in today, since many competing providers are not subject to any reporting requirements (i.e., wireless, VoIP). Eliminating this regulatory burden should be a primary goal of policy makers in 2007.

Because telecommunications markets are competitive (increasingly so everyday), market forces will drive the construction needs as customers demand certain services. As such, construction reporting is no longer necessary.

The intent is to have this language apply to telecommunications utilities (generally incumbent providers) as well as alternative telecommunications utilities (generally competitive providers).

### **Suggested Changes:**

196.10 (1) The commission shall keep itself informed of all new construction, extensions and additions to the property of public utilities, and shall prescribe the necessary forms, regulations and instructions for the keeping of construction accounts, which shall clearly distinguish all operating expenses from new construction.

(2) This section does not apply to telecommunications utilities or alternative telecommunications utilities. ✓

**Group B:**  
**Suggested Statutory Changes to Address Pricing**  
**Flexibility Concerns with the Current Statutory**  
**Scheme**

## Statutory Section: § 196.01; Definitions

### Why Changes Are Needed:

To effectuate changes and increase pricing flexibility, one method is to draw a distinction between basic service and non-basic service and remove regulations on the later, and phase out regulations on the former. Basic service will be defined as dial tone, stand-alone service. Non-basic service encompasses all other types of services (including features like voice mail and caller ID) as well as any services that are packaged together with basic service. The end goal is to provide pricing flexibility for packaged services, but at the same time keep some regulatory oversight of basic services for a period of time.

This system will provide protection to those who want basic service only, and provide increased ability for companies to compete on price and to react quickly to market changes on non-basic services. In total, this change will benefit all consumers since they will be able to see the benefits of a competitive marketplace sooner.

### Suggested Changes:

- This change of adding § 196.01(1k) would provide a definition for basic service that is necessary to define a distinction between basic service and non-basic service.

196.01 (1k) "Basic single-party residential service" means a service that includes only touch-tone service, access to emergency service, local usage, and extended area service.

- This change of adding § 196.01(-- ) would provide a definition for electing telecommunications utility to define a term that will encompass any utility that elects to be regulated under the new regulatory scheme established by this proposed legislation.

196.01 (-- ) "Electing telecommunications utility" means a telecommunications utility that has elected regulation under the provisions of s. 196.195(1m).

- This change of adding § 196.01(4g) would provide a definition for non-basic service that is necessary to define a distinction between basic service and non-basic service.

196.01 (4g) "Non-basic service" means any service that is not basic single-party residential service. Non-basic service includes any service package or bundle that includes basic single-party residential service in conjunction with any other service or promotion.

- This change of adding § 196.01(--)) would establish the period during with basic service is phased out of certain regulations for electing telecommunications utilities.

196.01 (--) "Transition period" means the two year period following the notice of an electing telecommunications utility under s. 196.195(1m)(--).



**Statutory Section: § 196.195; Partial Deregulation of competitive telecommunications services**

**Why Changes Are Needed:**

The changes outlined below are intended to implement the regulatory flexibility principles if and when a telecommunications utility elects to move toward this new form of regulation. This flexibility will further enhance the marketplace, and ultimately benefit consumers.

Upon election by a telecommunications utility, with respect to non-basic services, the vast majority of PSC oversight on pricing issues will be removed. Stand-alone basic service would remain subject to regulation during a transition period, at the conclusion of which PSC oversight would be reduced.

This new regulatory framework will be elective on the part of the telecommunications utility. That is, upon notice to the Commission, utilities will be able to take advantage of the exemptions provided herein, but may elect not to do so (and therefore remain under the current regulatory scheme applied to that utility).

**Suggested Change:**

(1m) (a) Upon notice to the Commission from a telecommunications utility, non-basic service shall not be subject to s. 196.12, s. 196.13, s. 196.19, tariffing requirements under s. 196.194, 196.196(1), (4), or (5), s. 196.20, s. 196.198, s. 196.204(7), s. 196.207, s. 196.21, s. 196.213, s. 196.215, s. 196.217, s. 196.22, s. 196.26, s. 196.28, s. 196.37, s. 196.52, s. 196.58, s. 196.60, s. 196.604, s. 196.77.

(b) After the transition period, basic services shall not be subject to s. 196.12, s. 196.13, s. 196.19, tariffing requirements under s. 196.194, 196.196(1), (4), or (5), s. 196.20, s. 196.198, s. 196.204(7), s. 196.21, s. 196.213, s. 196.215, s. 196.217, s. 196.22, s. 196.26, s. 196.28, s. 196.37, s. 196.52, s. 196.58, s. 196.60, s. 196.604, s. 196.77.

1. During the first year of the transition period, an electing telecommunications utility may not charge a rate for basic service that is more than 15% higher than the rate that was in place at the time the election was filed under this section.
2. During the second year of the transition period, an electing telecommunications utility may not charge a rate for basic service that is more than 15% higher than the rate that was in place during the previous year.

(c) An election by a telecommunications utility under this section shall be made by filing a written notice with the commission. An election becomes effective 30 days after the notice is filed. An election made under this section would supersede any prior election of regulation by the utility or any order or rules issued by the commission prior to the notice of election.

(d) Election under this section will not affect the ability of an election telecommunications utility to maintain a tariff or price list with the commission.

(1k) An election made under this subsection shall serve as consent in order to satisfy the consent allowances of s. 196.50(1)(b)2.b.. A carrier relying on this section to demonstrate consent to the provision of service shall be required to provide written notice to the commission and the electing telecommunications utility at least XX<sup>1</sup> days prior to providing service in the electing telecommunication utility's service territory.

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<sup>1</sup> The number of days of notice under this subsection is still being negotiated between the parties.

**Statutory Section: § 196.78; Voluntary Dissolution**

**Why Changes Are Needed:**

The competitive marketplace for services demands that companies be able to change their corporate structure or to reorganize corporate structures quickly. One barrier to a quick reorganization or dissolution would be the requirements that are removed by the following suggestion.

**Suggested Change:**

197.78 No corporation or limited liability company owning or operating a public utility may be dissolved unless the commission consents. The commission may consent only after hearing. The commission shall give at least 30 days' notice to each municipality in which the public utility is operated and an opportunity to be heard to each municipality and to the stockholders in the corporation or members of a limited liability company. This section does not apply to an electing telecommunications utility.



State of Wisconsin  
2007 - 2008 LEGISLATURE

LRB-2220/P1

MDK:/:....

cjs

O - NOTE

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

TODAY

4 PM,  
if possible

Gen Cat

- 1 AN ACT...; relating to: the regulation of certain telecommunications utilities and  
2 the public service commission's jurisdiction over public utilities in general.

***Analysis by the Legislative Reference Bureau***

This is a preliminary draft. An analysis will be prepared for a subsequent version of this draft.

For further information see the **state** fiscal estimate, which will be printed as an appendix to this bill.

***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

- 3 SECTION 1. 196.02 (1) of the statutes is amended to read:  
4 196.02 (1) JURISDICTION. The commission has jurisdiction to supervise and  
5 regulate every public utility in this state and to ~~do all things necessary and~~  
6 ~~convenient to its jurisdiction~~ take actions that are reasonably necessary to carry out  
7 its regulatory functions under this chapter *the statutes*

History: 1977 c. 29 ss. 1329, 1331, 1333, 1352; 1977 c. 418; 1981 c. 148; 1983 a. 27, 53; 1985 a. 297; 1987 a. 403; 1989 a. 344; 1993 a. 496; 1997 a. 140; 1999 a. 150; 2003 a. 89; 2005 a. 441.

- 8 SECTION 2. 196.02 (4) (a) of the statutes is amended to read:

1           196.02 (4) (a) The commission may inquire into the management of the  
2 business of all public utilities. The commission shall keep itself informed as to the  
3 manner and method in which the same is conducted. The commission may obtain  
4 from any public utility ~~any~~ information that is reasonably necessary to enable the  
5 commission to perform its duties.

History: 1977 c. 29 ss. 1329, 1331, 1333, 1352; 1977 c. 418; 1981 c. 148; 1983 a. 27, 53; 1985 a. 297; 1987 a. 403; 1989 a. 344; 1993 a. 496; 1997 a. 140; 1999 a. 150; 2003 a. 89; 2005 a. 441.

6           **SECTION 3.** 196.02 (4) (b) (intro.) of the statutes is amended to read:

7           196.02 (4) (b) (intro.) Each public utility, except for a telecommunications  
8 utility or alternative telecommunications utility, shall furnish to the commission, in  
9 such form and at such times as the commission requires, the following information  
10 respecting the identity of the holders of its voting capital stock in order to enable the  
11 commission to determine whether the holders constitute an affiliated interest within  
12 the meaning of this chapter:

History: 1977 c. 29 ss. 1329, 1331, 1333, 1352; 1977 c. 418; 1981 c. 148; 1983 a. 27, 53; 1985 a. 297; 1987 a. 403; 1989 a. 344; 1993 a. 496; 1997 a. 140; 1999 a. 150; 2003 a. 89; 2005 a. 441.

13           **SECTION 4.** 196.02 (4) (c) of the statutes is created to read:

14           196.02 (4) (c) <sup>bm</sup> Each telecommunication utility or alternative  
15 telecommunications utility shall furnish the commission with the name of each  
16 holder of 5 percent or more of the voting capital stock of the utility and the nature  
17 of the property right or equitable interest which each such holder has in the stock.  
18 The commission shall withhold any information furnished under this paragraph  
19 from public inspection.

20           **SECTION 5.** 196.07 (1) of the statutes is amended to read:

21           196.07 (1) Each public utility shall close its accounts annually on December 31  
22 and promptly prepare a balance sheet of that date. On or before the following April  
23 May 1 every public utility shall file with the commission the balance sheet together

1 with any other information the commission prescribes, except that the information  
2 filed by a telecommunications utility or alternative telecommunications utility shall  
3 include only a balance sheet, a count of the access lines served by the utility, and  
4 information needed to calculate contributions to the universal service fund under s.  
5 196.218 (3). The information submitted under this subsection shall be verified by an  
6 officer of the public utility. The commission, for good cause shown, may extend the  
7 time for filing the balance sheet and prescribed information.

History: 1983 a. 53; 2001 a. 16.

8 **SECTION 6.** 196.10 of the statutes is renumbered 196.10 (1).

9 **SECTION 7.** 196.10 (2) of the statutes is created to read:

10 196.10 (2) This section does not apply to telecommunications utilities or  
11 alternative telecommunications utilities.

12 **SECTION 8.** 196.195 (title) of the statutes is amended to read:

13 **196.195 (title) Partial deregulation of competitive telecommunications**  
14 **services.**

History: 1985 a. 297; 1987 a. 403 s. 256; 1993 a. 496; 1997 a. 140; 1999 a. 150; 2001 a. 16.

15 **SECTION 9.** 196.195 (1m) of the statutes is created to read:

16 196.195 (1m) ELECTIVE DEREGULATION. (a) In this subsection:

17 1. "Basic service" means a telecommunications service that includes only  
18 touch-tone service, access to emergency service, local usage, and extended area  
19 service.

20 2. "Nonbasic service" means a telecommunications service that is not a basic  
21 service, including a telecommunications service that is included in a service package  
22 or bundle that also includes a basic service.

23 (b) Upon a telecommunication utility's filing of written notice to the  
24 commission, all of the following apply:

1           1. Beginning on the effective date of the notice, the nonbasic service of the  
2 telecommunications utility is not be subject to ss. 196.12, 196.13, 196.19, 196.194,  
3 196.196 (1), (4), or (5), 196.198, 196.20, 196.204 (7), 196.207, 196.21, 196.213,  
4 196.215, 196.217, 196.22, 196.26, 196.28, 196.37, 196.52, 196.58, 196.60, 196.604, or  
5 196.77.

6           2. Beginning 2 years after the effective date of the notice, the basic service of  
7 the telecommunications utility is not subject to the statutes specified in subd. 2. <sup>1.</sup>

8           3. During the first year after the effective date of the notice, the  
9 telecommunications utility may not charge a rate for basic service that is more than  
10 15% <sup>e percent</sup> higher than the rate charged immediately before the provision of notice.

11           4. During the 2nd year after the effective date of the notice, the  
12 telecommunications utility may not charge a rate for basic service that is more than  
13 15% <sup>e percent</sup> higher than the rate charged during the previous year.

14           (c) The effective date of a notice filed under par. (b) is the 30th day after filing  
15 of the notice.

16           (d) The filing of a notice by a telecommunications utility under par. (b) ✓  
17 supersedes any prior election of regulation by the telecommunications utility or any  
18 order issued or rules <sup>re</sup> promulgated by the commission prior to the notice of election.

19           (e) The filing of a notice by a telecommunications utility under par. (b) shall not ✓  
20 affect the ability of the telecommunications utility to maintain a tariff or price list  
21 with the commission. ✓

22           (f) If a telecommunications utility files a notice under par. (b), the ✓  
23 telecommunications utility is considered to have granted consent for purposes of s.  
24 196.50 (1) (b) 2. b. ✓ A person relying on this paragraph to demonstrate that a  
25 telecommunications utility has granted such consent shall provide written notice to

1 the commission and the <sup>e</sup>telecommunications utility at least \_\_\_ days prior to  
2 providing local exchange service, as defined in s. 196.50 (1) (b) 1., in the  
3 telecommunication utility's service territory.

\*\*\*\*NOTE: As noted in the drafter's note, please supply a deadline for the above.

4 **SECTION 10.** 196.78<sup>✓</sup> of the statutes is renumbered 196.78 (2).

5 **SECTION 11.** 196.78<sup>✓</sup> (1) of the statutes is created to read:

6 196.78 (1) In this section, "public utility" does not include a  
7 telecommunications utility that files a notice under s. 196.195 (1m) (b).<sup>✓</sup>

8 (END)